

Notice of Allowability

Application No.

10/525,852

Examiner

KRISTEN C. MATTER

Applicant(s)

HUBER ET AL.

Art Unit

3771

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to the Request for Continued Examination filed on 2/1/2008.
2. ☒ The allowed claim(s) is/are 1-4 and 6-52.
3. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some* c) ☐ None of the:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. ____.
3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).
- * Certified copies not received: ____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
- (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
- 1) ☐ hereto or 2) ☐ to Paper No./Mail Date ____.
- (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date ____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).**
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO/SB/08),
Paper No./Mail Date ____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 20080305.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other ____.

DETAILED ACTION

Election/Restrictions

Claim 1 is allowable. Claims 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 18, 19, 32, 33, and 47, previously withdrawn from consideration as a result of a restriction requirement, require all the limitations of an allowable claim. Pursuant to the procedures set forth in MPEP § 821.04(a), **the restriction requirement between inventions Species I (sock) and Species II (no sock), as set forth in the Office action mailed on 3/21/2007, is hereby withdrawn** and claims 2, 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 18, 19, 32, 33, and 47 are hereby rejoined and fully examined for patentability under 37 CFR 1.104. In view of the withdrawal of the restriction requirement, applicant(s) are advised that if any claim presented in a continuation or divisional application is anticipated by, or includes all the limitations of, a claim that is allowable in the present application, such claim may be subject to provisional statutory and/or nonstatutory double patenting rejections over the claims of the instant application. Once the restriction requirement is withdrawn, the provisions of 35 U.S.C. 121 are no longer applicable. See *In re Ziegler*, 443 F.2d 1211, 1215, 170 USPQ 129, 131-32 (CCPA 1971). See also MPEP § 804.01.

EXAMINER'S AMENDMENT

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it MUST be submitted no later than the payment of the issue fee.

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Authorization for this examiner's amendment was given in a telephone interview with Melanie Rauch on 3/5/2008.

The application has been amended as follows:

In claim 1, line 3, change "fastening provision in a region" to --fastening provision for placement in a region--;

In claim 1, line 4, change "fastening provision in a region" to --fastening provision for placement in a region--;

In claim 1, lines 5-6, change "the fastening provisions in the regions of the big toe and the central foot and which extends" to --the first and second fastening provisions and which is adapted to extend--;

In claim 1, line 9, change "hinge mechanism positioned" to --hinge mechanism adapted to be positioned--;

In claim 2, line 1, delete the term "orthopaedic";

In claim 2, line 3, delete the term "or similar enclosing element";

In claim 2, line 3, change fastening provisions in the regions of the big toe and the central foot" to --first and second fastening provisions--;

In claim 6, line 2, change "the region" to --a region--;

In claim 8, line 2, change "big toe fully encloses" to --big toe is adapted to fully enclose--;

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In claim 9, line 2, change “annular binding in the region of the central foot entirely surrounding” to -- annular binding for placement in the region of the central foot for entirely surrounding--;

In claim 11, line 3, change “fully surrounds” to --is adapted to fully surround--;

In claim 13, line 4, change “annular bindings” to --first and second annular bindings-- and in line 5, change "fastening/holding" to --the first and second fastening--;

In claim 16, line 2, change “a first fastening provision” to --the first fastening provision-- and in line 3, change "a second fastening provision" to --the second fastening provision--;

In claim 17, line 2, change “is used” to --is adapted to be used--;

In claim 28, line 2, change “holder joining” to --holder for joining--;

In claim 32, line 2, change “bindings are joined to the hinged splint shanks” to --binding is joined to hinged splint shanks of the flexible splint--;

In claim 33, line 2, change "bindings incorporate" to --binding incorporates--;

In claim 37, line 2, change “hinged splint that lie” to --flexible splint adapted to lie--;

In claim 48, line 2, change “hinged” to --flexible--;

In claim 49, line 2, change “bindings around” to --bindings for placement around--;

In claim 51, line 3, change “hinge” to --pivot--.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to KRISTEN C. MATTER whose telephone number is (571)272-5270. The examiner can normally be reached on Monday - Friday 9-4.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Justine Yu can be reached on (571) 272-4835. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Kristen C. Matter/
Examiner, Art Unit 3771

/Justine R Yu/
Supervisory Patent Examiner, Art Unit 3771